

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Viejas Band of Kumeyaay Indians)	Case No. 18-1181
d/b/a Viejas Casino & Resort)	
)	
Petitioner,)	
v.)	
)	
National Labor Relations Board,)	NLRB Case Nos.: 21-CA-166290
)	
Respondent.)	

**JOINT AND UNOPPOSED MOTION FOR EXTENSION OF INITIAL
FILING DEADLINES**

Pursuant to FRAP 27(a)(1), (2) and Cir. R. 27(a)(1), (2), the Viejas Band of Kumeyaay Indians D/B/A Viejas Casino & Resort (the “Petitioner”) and United Food and Commercial Workers Union, Local 135, AFL-CIO (the “Intervenor”) jointly move this Court for a thirty (30) day continuance of all deadlines set by the Court in its July 2, 2018 Order (the “Document Order”), Document No. 1738696. The reason for the requested continuance is that the requesting parties have reached a settlement in principle of the dispute between them and are seeking approval of the settlement by the National Labor Relations Board (“NLRB”).

On June 29, 2018, Petitioner petitioned for review of the NLRB’s (the “Respondent”) Order in *Viejas Casino & Resort*, Case No. 21-CA-166290 (the

“Appeal”). On July 2, 2018, this Court ordered Petitioner and Respondent to submit certain documents on or before August 1, 2018 and August 16, 2018. *See* Document Order, Document No. 1738696. On July 16, 2018, Intervenor, which is the Charging party in the proceedings before the NLRB, moved to intervene, as of right, in this proceeding. On July 18, 2018, Respondent filed its Cross-Application for Enforcement of its Order in *Viejas Casino & Resort*, Case No. 21-CA-166290.

Since the foregoing, Petitioner and Intervenor have engaged in settlement negotiations and, as of the date of this Motion, have reached an agreement in principle resolving the matter (the “Settlement Agreement”). Both Respondent and Intervenor are prepared to execute the Settlement Agreement. Before either party can execute the Settlement Agreement, however, Respondent NLRB, must review and approve Settlement Agreement.

In *Independent Stave Co.*, 287 NLRB 740 (1987), the NLRB confirmed that its jurisdiction over settlement agreements requires it to enforce the public interest, not merely private rights, and to reject private settlements that are repugnant to the National Labor Relations Act or Board policy. *Id.* at 741. Accordingly, to properly assess the Parties’ Proposed Settlement Agreement, the Respondent NLRB will necessarily need ample time to review the terms and conditions of the settlement. The NLRB, the Respondent and Cross Petitioner in this proceeding, has indicated that it does not oppose this motion.

For purposes of efficiency and judicial economy, Petitioner and Intervenor jointly and respectfully move this Court to continue all deadlines provided for in the Document Order for a period not less than thirty (30) consecutive days. During this time, the NLRB will review the proposed Settlement Agreement. If and when the NLRB approves of the Settlement Agreement, the Respondent and Intervenor will execute the Settlement Agreement and, pursuant to its terms, seek a dismissal of this proceeding in its entirety.

Dated: Washington D.C.
July 27, 2018

Respectfully submitted,

JONES DAY

By:

/s/ George Howard, Jr.

George Howard, Jr.

4655 Executive Drive

San Diego, California 92121

(858) 314-1200

gshoward@jonesday.com

Attorney for Petitioner

Schwartz, Steinsapir, Dohrmann &
Sommers, LLP

By:

/s/ Michael D. Four

MICHAEL D. FOUR

Attorney for Intervenor

Schwartz, Steinsapir, Dohrmann &
Sommers LLP

6300 Wilshire Blvd., Suite 2000

Los Angeles, CA 90048

Telephone: (323) 655-4700

Fax: (323) 655-4488

Email: mdf@ssdslaw.com

CERTIFICATE OF SERVICE

Pursuant to Rule 15(c) and 25(b)-(d) of the Federal Rules of Appellate Procedure, I hereby certify that on July 27, 2018, the foregoing was electronically filed with the Clerk of Court for the United States Court of Appeals for the District of Columbia by using the appellate CM/ECF system. I certify that all participants in the case, except indicated below, are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

I certify that on July 27, 2018, a true and correct copy of the above and foregoing Joint and Unopposed Motion for Continuance was served by UPS Next Day Air on the following interested party:

William B. Cowen
Regional Director, Region 21
888 S Figuero Street, 9th Floor
Los Angeles, CA 90017

Dated: Washington D.C.
July 27, 2018

/s/ George Howard, Jr.
George Howard, Jr.